

CHAPTER 150

AN ACT concerning the range of investment vehicles in which the Director of the Division of Investment may invest moneys in the State of New Jersey Cash Management Fund and State pension funds, amending and supplementing P.L.1977, c.281 (C.52:18A-90.4 et seq.) and supplementing P.L.1970, c.270 (C.52:18A-90.1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1977, c.281 (C.52:18A-90.4) is amended to read as follows:

C.52:18A-90.4 State of New Jersey Cash Management Fund.

1. a. Notwithstanding the provisions of section 2 of P.L.1970, c.270 (C.52:18A-90.2), the Director of the Division of Investment may, subject to the approval of the State Investment Council and the State Treasurer, establish, maintain and operate a common trust fund to be known as the State of New Jersey Cash Management Fund in which may be deposited the surplus public moneys of the State, its counties, municipalities and school districts and the agencies or authorities created by any of these entities. This fund shall be considered a legal depository for public moneys and shall satisfy the requirements in that regard of section 1 of P.L.1956, c.174 (C.52:18-16.1) and N.J.S.40A:5-14.

b. The State Treasurer shall be the custodian of the fund and may receive public moneys paid into the fund by any other custodian of public moneys for the purpose of holding and investing said moneys. In that capacity, he may enter into an agreement with any one or more of the national banks and the banks authorized by this State to carry on a banking business, as he may select, for the custodianship of securities held in the fund and for recording the amounts deposited and withdrawn by each participant, the investment transactions entered into, and the balance to each participant's credit each day. A bank selected by the State Treasurer as custodian pursuant to this section shall have a physical presence in this State in the form of a principal office or branch office and shall employ New Jersey residents. Each bank selected by the State Treasurer may use recognized depositories or clearinghouses for the securities held in the fund or may use other banks as sub-custodians or sub-fiscal agents for these securities, provided that in every case each bank selected by the State Treasurer shall retain primary responsibility for these securities.

c. If a bank selected by the State Treasurer delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be responsible for the services delegated to it to the same degree as the primary custodian or primary fiscal agent and shall maintain accounting records and be otherwise held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

d. A bank selected by the State Treasurer as a primary custodian or fiscal agent which delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, shall not be relieved of its fiduciary duties and responsibilities.

e. The State Treasurer may promulgate such rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as he deems necessary for the efficient administration of the State of New Jersey Cash Management Fund, including but not limited to, (1) the specification of minimum amounts which may be deposited in the fund and minimum periods of time for which deposits shall be retained in the fund; (2) creation of a reserve for losses; (3) provision for payment of administration expenses from its earnings; and (4) distribution of the earnings in excess of such expenses or allocation of losses to the several participants in a manner which equitably reflects the

differing amounts of their respective investments and the differing periods of time for which such amounts were in the custody of the fund.

f. The Director of the Division of Investment may invest the public moneys constituting the State of New Jersey Cash Management Fund in the same types of investments and subject to the same limitations provided for the investment of funds in the State Treasury. The director shall be responsible for the adequacy of the accounting services provided by the custodian bank and shall maintain such accounting records as may be required for that purpose.

g. The Director of the Division of Investment may establish separate sub-funds within the State of New Jersey Cash Management Fund or establish a separate fund where the public moneys are invested in tax-exempt securities in order to segregate and account for separately the investment of moneys from participants in the fund to comply with federal law and regulations governing tax-exempt securities, provided however, that such sub-funds or funds shall be subject to all laws and regulations that apply to the New Jersey Cash Management Fund.

2. a. Notwithstanding the restrictions of any regulation in effect as of the effective date of this act, P.L.2009, c.150, for the period of one year from the effective date of this act the Director of the Division of Investment may invest the public moneys in the State of New Jersey Cash Management Fund or a separate fund created pursuant to P.L.2009, c.150 in bonds or notes with maturities not greater than one year issued by the State and its authorities, or by any local government unit of the State, that are exempt from both federal and State taxes, in accordance with federal and State laws and regulations.

b. If the State Investment Council does not adopt regulations extending the authority to make the investments allowed in subsection a. of this section, the Division of Investment shall not be required to liquidate investments made pursuant to the authority of that subsection.

3. a. Notwithstanding the restrictions of any regulation in effect as of the effective date of this act, P.L.2009, c.150, for the period of one year from the effective date of this act the Director of the Division of Investment may invest the public moneys of the State of New Jersey Cash Management Fund or a separate fund created pursuant to P.L.2009, c.150 without limitation as to amount or percentage invested in any one issue of obligations, and without limitation as to ratings, provided such issue of obligations is insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). Consistent with the director's fiduciary responsibilities, the director may give preference to investments issued by financial institutions that through participation in programs administered by the New Jersey Economic Development Authority, including the Preferred Lender Program, provide access to capital to businesses in New Jersey.

b. If the State Investment Council does not adopt regulations extending the authority to make the investments allowed in subsection a. of this section, the Division of Investment shall not be required to liquidate investments made pursuant to the authority of that subsection.

4. a. Notwithstanding the restrictions of any regulation in effect as of the effective date of this act, P.L.2009, c.150, for the period of one year from the effective date of this act, the Director of the Division of Investment may invest the public moneys of Common Pension

Fund B, created pursuant to section 1 of P.L.1970, c.270 (C.52:18A-90.1 et seq.) and N.J.A.C.17:16-63.1 et seq., without limitation as to the amount or percentage invested in any one issue of obligations, and without limitation as to ratings, provided such issue of obligations is insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). Consistent with the director's fiduciary responsibilities, the director may give preference to investments issued by financial institutions that through participation in programs administered by the New Jersey Economic Development Authority, including the Preferred Lender Program, provide access to capital to businesses in New Jersey.

b. If the State Investment Council does not adopt regulations extending the authority to make the investments allowed in subsection a. of this section, the Division of Investment shall not be required to liquidate investments made pursuant to the authority of that subsection.

5. This act shall take effect immediately.

Approved November 20, 2009.